

verify, on a test basis, that the gaming operation is in material compliance with the tribal internal control standards or a tribally approved variance that has received Commission concurrence. The procedures may be performed in conjunction with the annual audit. The CPA shall report its findings to the Tribe, Tribal gaming regulatory authority, and management. The Tribe shall submit a copy of the report to the Commission within 120 days of the gaming operation's fiscal year end.

(2) *CPA Guidelines.* In connection with the CPA testing pursuant to paragraph (f)(1) of this section, the Commission shall develop recommended CPA Guidelines available upon request.

(g) *Enforcement of Commission Minimum Internal Control Standards.* (1) Each Tribal gaming regulatory authority is required to establish and implement internal control standards pursuant to paragraph (c) of this section. Each gaming operation is then required, pursuant to paragraph (d) of this section, to develop and implement an internal control system that complies with the Tribal internal control standards. Failure to do so may subject the Tribal operator of the gaming operation, and/or the management contractor, to penalties under 25 U.S.C. 2713.

(2) Recognizing that Tribes are the primary regulator of their gaming operation(s), enforcement action by the Commission will not be initiated under this part without first informing the Tribe and Tribal gaming regulatory authority of deficiencies in the internal controls of its gaming operation and allowing a reasonable period of time to address such deficiencies. Such prior notice and opportunity for corrective action is not required where the threat to the integrity of the gaming operation is immediate and severe.

§ 542.4 How do these regulations affect minimum internal control standards established in a Tribal-State compact?

(a) If there is a direct conflict between an internal control standard established in a Tribal-State compact and a standard or requirement set forth in this part, then the internal

control standard established in a Tribal-State compact shall prevail.

(b) If an internal control standard in a Tribal-State compact provides a level of control that equals or exceeds the level of control under an internal control standard or requirement set forth in this part, then the Tribal-State compact standard shall prevail.

(c) If an internal control standard or a requirement set forth in this part provides a level of control that exceeds the level of control under an internal control standard established in a Tribal-State compact, then the internal control standard or requirement set forth in this part shall prevail.

§ 542.5 How do these regulations affect state jurisdiction?

Nothing in this part shall be construed to grant to a state jurisdiction in class II gaming or extend a state's jurisdiction in class III gaming.

§ 542.6 Does this part apply to small and charitable gaming operations?

(a) *Small gaming operations.* This part shall not apply to small gaming operations provided that:

(1) The Tribal gaming regulatory authority permits the operation to be exempt from this part;

(2) The annual gross gaming revenue of the operation does not exceed \$1 million; and

(3) The Tribal gaming regulatory authority develops and the operation complies with alternate procedures that:

(i) Protect the integrity of games offered; and

(ii) Safeguard the assets used in connection with the operation.

(b) *Charitable gaming operations.* This part shall not apply to charitable gaming operations provided that:

(1) All proceeds are for the benefit of a charitable organization;

(2) The Tribal gaming regulatory authority permits the charitable organization to be exempt from this part;

(3) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers;

(4) The annual gross gaming revenue of the charitable gaming operation does not exceed \$100,000;